THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT APPEAL NO.2233 of 2005

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29th November 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 23.06.2005 in W.P.NO.34757 OF 1998 on the file of the High Court.)

Between:

Md.Mustafa, S/o.Sri Mohiuddin,
R/o. Nr.Navodaya Public School, Srinivasanagar,

Jagadgirgutta, Hyderabad.

...APPELLANT

AND

1 Venkateswara Hatcheries Limited, Rep. by General Manager,
Venkateswara House, 3-5-807 & 808/1, Hyderguda,
Hyderabad 500 029.
2 The Chairman & Presiding Officer, Industrial Tribunal Cum

Labour Court, Visakhapatnam.

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard both the sides.

At their request, the Writ Appeal itself is taken up for disposal.

The appellant, who is the employee of the first respondent herein, filed this Writ Appeal aggrieved by the order dated 23.06.2005 in W.P.No.34757 of 1998, filed at the instance of the first respondent herein, wherein the award dated 08.07.1998 in I.D.No.153 of 1995 on the file of the Labour Court-I, Hyderabad was sought to be challenged in respect of the disciplinary proceedings initiated against the appellant.

On an application under Section 2 (A) (2) of the Industrial Disputes Act, 1947, the Labour Court found that the appellant is entitled for reinstatement with back wages as such the said award was challenged by the first respondent. The learned Single Judge found that there is sufficient delay in filing the application and there being no proper justification as the appellant abandoned the service, sought to exercise his discretion restricting the back wages to 50% only.

Having heard either side and on perusal of the material available on record, it is

seen that admittedly there is no justification on the part of the appellant herein to assail the impugned order in regard to the punishment in the discretion exercised by the learned Single Judge under Article 227 of the Constitution of India. Though an attempt has been made on behalf of the appellant, in spite of the order of the learned Single Judge about the place of posting other than Hyderabad, the said submissions are totally beyond scope of the reference and constitute independent cause of action for which the remedy lies elsewhere. In the circumstances, we do not find any merits in the appeal.

Accordingly, the Writ Appeal is dismissed. No costs. However, it shall be open for the appellant to make an application before the first respondent in regard the place of posting and the same would be considered on merits in accordance with law.

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(B.PRAKASH RAO, J)

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(R.SUBHASH REDDY, J)

29th November 2005

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